# BEFORE THE BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

In the Matter of the Accusation Against:

KARA LIN ALLEN
2218 Spring Street, Apartment D
Eureka, CA 95501

Registered Nurse License No. 638845

Respondent

Case No. 2012-265

OAH No. 2011120907

## **DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order for Public Reproval is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on April 5, 2013.

IT IS SO ORDERED March 6, 2013.

Raymond Mallel, President

Board of Registered Nursing

Department of Consumer Affairs

State of California

1	KAMALA D. HARRIS					
2	Attorney General of California FRANK H. PACOE	·				
2	Supervising Deputy Attorney General					
3	JUDITH J. LOACH					
,	Deputy Attorney General					
4	State Bar No. 162030					
	455 Golden Gate Avenue, Suite 11000					
5	San Francisco, CA 94102-7004 Telephone: (415) 703-5604					
6	Facsimile: (415) 703-5004					
	E-mail: Judith.Loach@doj.ca.gov					
7	Attorneys for Complainant					
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8		RE THE STERED NURSING				
9		CONSUMER AFFAIRS				
		CALIFORNIA				
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11	In the Matter of the Accusation Against:	Case No. 2012-265				
12	KARA LIN ALLEN	OAH No. 2011120907				
	2218 Spring Street, Apartment D					
13	Eureka, CA 95501	STIPULATED SETTLEMENT AND				
14	Registered Nurse License No. 638845	DISCIPLINARY ORDER FOR PUBLIC				
	Respondent.	REPROVAL				
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17	TO TO THE DEDY CUIDER ATED AND ACT	CED by and between the mortion to the obeys				
Į	II is hereb! Silfocated and Adi	REED by and between the parties to the above-				
18	entitled proceedings that the following matters a	re true:				
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19	PAR	<u>.TIES</u>				
20	1. LOUISE R. BAILEY, M.ED., RN (*	'Complainant") is the Executive Officer of the				
21	Board of Registered Nursing. She brought this action solely in her official capacity and is					
	Board of Registered Nursing. She brought this a	ection solely in her official capacity and is				
22						
22	Board of Registered Nursing. She brought this a represented in this matter by Kamala D. Harris,					
22	represented in this matter by Kamala D. Harris,					
23	represented in this matter by Kamala DHarris, Judith J. Loach, Deputy Attorney General.	Attorney General of the State of California, by				
	represented in this matter by Kamala DHarris, Judith J. Loach, Deputy Attorney General.					
23 24	represented in this matter by Kamala D. Harris, Judith J. Loach, Deputy Attorney General.  2. Respondent Kara Lin Allen ("Respo	Attorney General of the State of California, by ndent") is represented in this proceeding by				
23 24 25	represented in this matter by Kamala DHarris, Judith J. Loach, Deputy Attorney General.	Attorney General of the State of California, by ndent") is represented in this proceeding by				
23 24	represented in this matter by Kamala D. Harris, Judith J. Loach, Deputy Attorney General.  2. Respondent Kara Lin Allen ("Respo	Attorney General of the State of California, by ndent") is represented in this proceeding by				
23 24 25 26	represented in this matter by Kamala D. Harris, a Judith J. Loach, Deputy Attorney General.  2. Respondent Kara Lin Allen ("Respondent Scott J. Kiepen, Esq., whose address is: Street, Suite 2300, San Francisco, CA 94105.	Attorney General of the State of California, by ndent") is represented in this proceeding by				
23 24 25	represented in this matter by Kamala D. Harris, Judith J. Loach, Deputy Attorney General.  2. Respondent Kara Lin Allen ("Responter attorney Scott J. Kiepen, Esq., whose address is:	Attorney General of the State of California, by ndent") is represented in this proceeding by				
23 24 25 26	represented in this matter by Kamala D. Harris, a Judith J. Loach, Deputy Attorney General.  2. Respondent Kara Lin Allen ("Respondent Scott J. Kiepen, Esq., whose address is: Street, Suite 2300, San Francisco, CA 94105.	Attorney General of the State of California, by ndent") is represented in this proceeding by				

STIPULATED SETTLEMENT (BRN Case No. 2012-265)

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3. On or about June 24, 2004, the Board of Registered Nursing issued Registered Nurse License No. 638845 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. 2012-265 and will expire on February 28, 2014, unless renewed.

## JURISDICTION

4. Accusation No. 2012-265 was filed before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, and is currently pending against Respondent.

The Accusation and all other statutorily required documents were properly served on Respondent on October 27, 2011. Respondent timely filed her Notice of Defense contesting the Accusation.

A copy of Accusation No. 2012-265 is attached as Exhibit A and incorporated herein by reference.

#### ADVISEMENT AND WAIVERS

- 5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2012-265. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order for Public Reproval.
- 6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

**CULPABILITY** 

- 8. Respondent understands and agrees that the charges in the Accusation No. 2012-265, if proven at hearing, constitute cause for imposing discipline on her Registered Nurse License.
- 9. For the purpose of resolving this matter without the expense and uncertainty of further proceedings, Respondent agrees that at a hearing, Complaint could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up her right to contest those charges.
- 10. Respondent agrees that her Registered Nurse License is subject to discipline and she agrees to be bound by the Board's Disciplinary Order as set forth below.

#### CONTINGENCY

- 11. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order for Public Reproval shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.
- 12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order for Public Reproval, including facsimile signatures thereto, shall have the same force and effect as the originals.
- 13. This Stipulated Settlement and Disciplinary Order for Public Reproval is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order for Public Reproval may not be altered, amended, modified,

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supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

## **DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Registered Nurse License No. 638845 issued to Respondent Kara Lin Allen shall, by way of letter from the Board's Executive Officer, be publicly reproved. The letter shall be in the same form as the letter attached as Exhibit B to this stipulation.

IT IS FURTHER ORDERED that within ninety (90) days from the effective date of this decision, Respondent shall pay \$2,638.00 to the Board for its costs associated with the investigation and enforcement of this matter. Respondent shall be permitted to pay these costs in a payment plan approved by the Board. If Respondent fails to pay the Board costs as ordered, Respondent shall not be allowed to renew her Registered Nurse License until Respondent pays costs in full.

## **ACCEPTANCE**

I have carefully read the above Stipulated Settlement and Disciplinary Order for Public Reproval and have fully discussed it with my attorney, Scott J. Kiepen, Esq. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order for Public Reproval voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED:	8	23	12	_Camo
_	1			KARA LIN ALLEN
				Respondent

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1	I have read and fully discussed with Respondent Kara Lin Allen the terms and conditions				
2	and other matters contained in the above Stipulated Settlement and Disciplinary Order for Public				
3	Reproval. I approve its form and content.				
4	DATED: 8/23/12 Seet / Cliph				
5	Scott J. Kfepen, Esq. Attorney for Respondent				
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7	<u>ENDORSEMENT</u>				
8	The foregoing Stipulated Settlement and Disciplinary Order for Public Reproval is hereby				
9	respectfully submitted for consideration by the Board of Registered Nursing of the Department of				
10	Consumer Affairs.				
11	D. 1 A				
12	Dated: August 27, 2012 Respectfully submitted,				
13	KAMALA D. HARRIS Attorney General of California				
14	FRANK H. PACOE Supervising Deputy Attorney General				
15	TUSTA LOAM				
16	Judith J. Loach				
17	Deputy Attorney General Attorneys for Complainant				
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Exhibit A

Accusation No. 2012-265

1	KAMALA D. HARRIS		
2	Attorney General of California FRANK H. PACOE		
3	Supervising Deputy Attorney General JUDITH J. LOACH		
4	Deputy Attorney General State Bar No. 162030		
5	455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004		
6	Telephone: (415) 703-5604 Facsimile: (415) 703-5480		
7	E-mail: Judith.Loach@doj.ca.gov  Attorneys for Complainant		
8	BEFORE THE		
9	BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS		
10	STATE OF CALIFORNIA		
11	In the Matter of the Accusation Against: Case No. 2012-265		
12			
13	KARA LIN ALLEN 2218 Spring Street, Apt. D		
14	Eureka, CA 95501 Registered Nurse License No. 638845 ACCUSATION		
15	Respondent.		
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17	Complainant alleges:		
18	PARTIES		
19	1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her		
20	official capacity as the Executive Officer of the Board of Registered Nursing, Department of		
21	Consumer Affairs.		
22	2. On or about June 24, 2004, the Board of Registered Nursing issued Registered Nurse		
23	License Number 638845 to Kara Lin Allen ("Respondent"). The Registered Nurse License was		
24	in full force and effect at all times relevant to the charges brought herein and will expire on		
25	February 29, 2012, unless renewed.		
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#### **JURISDICTION**

- 3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
- 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

## STATUTORY AND REGULATORY PROVISIONS

6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct, which includes, but is not limited to, the following:
- "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.
  - 7. California Code of Regulations, title 16, section 1442, states:

"As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life."

8. California Code of Regulations, title 16, section 1443, states:

"As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5."

9. California Code of Regulations, title 16, section 1443.5 states:

"A registered nurse shall be considered to be competent when he/she consistently demonstrates the ability to transfer scientific knowledge from social, biological and physical sciences in applying the nursing process, as follows:

- "(1) Formulates a nursing diagnosis through observation of the client's physical condition and behavior, and through interpretation of information obtained from the client and others, including the health team.
- "(2) Formulates a care plan, in collaboration with the client, which ensures that direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and for disease prevention and restorative measures.
- "(3) Performs skills essential to the kind of nursing action to be taken, explains the health treatment to the client and family and teaches the client and family how to care for the client's health needs.
- "(4) Delegates tasks to subordinates based on the legal scopes of practice of the subordinates and on the preparation and capability needed in the tasks to be delegated, and effectively supervises nursing care being given by subordinates.
- "(5) Evaluates the effectiveness of the care plan through observation of the client's physical condition and behavior, signs and symptoms of illness, and reactions to treatment and through communication with the client and health team members, and modifies the plan as needed.
- "(6) Acts as the client's advocate, as circumstances require, by initiating action to improve health care or to change decisions or activities which are against the interests or wishes of the client, and by giving the client the opportunity to make informed decisions about health care before it is provided."

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## COST RECOVERY

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

## FACTUAL BACKGROUND

- 11. At all relevant times, Respondent was the Assistant Director of Nursing ("ADON") at Granada Healthcare and Rehab Center ("GHRC"), a skilled nursing facility in Eureka, California. As the ADON, Respondent was required to make weekly skin assessment rounds and to review resident's Plans of Care and charts to assure that appropriate nursing care and treatment was given to resident's with pressure ulcers.<sup>1</sup>
- 12. On or about November 5, 2008, P.R. was admitted to GHRC. She was 91 years old, with a right hip fracture which was being treated by a leg immobilizer brace.
- 13. On admission, GHRC staff failed to institute a pressure ulcer or skin integrity care plan for prevention of pressure ulcers and/or interventions regarding P.R.'s immobilizer brace.
- 14. On November 18, 2008, P.R. was noted to have a Stage II pressure ulcer on her right heel. There were no further assessments of P.R.'s right heel ulcer until December 1, 2008 at which time her pressure ulcer had progressed to Stage IV.
- 15. A non-urgent referral was made by GHRC staff on December 8, 2008, for P.R. to be evaluated at the Wound Care Clinic ("Wound Clinic"), with an appointment scheduled approximately one month later on January 5, 2009.
- 16. P.R.'s right heel pressure ulcer progressively worsened prior to the Wound Clinic appointment. When P.R. presented to the Wound Clinic on January 5, 2009, her right leg had extensive necrotic (dead) tissue with her Achilles tendon fully exposed and foul smelling drainage.

<sup>&</sup>lt;sup>1</sup> A pressure ulcer is defined as any lesion caused by unrelieved pressure which results in damage to underlying tissue(s). They are graded from Stage I to Stage IV to classify the degree of tissue damage. A Stage IV pressure ulcer is the most serious and is evidenced by full thickness skin loss with exposed bone, tendon and/or muscle.

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17. The Wound Clinic immediately referred P.R. to Saint Joseph's Hospital where she underwent amputation of her right lower leg due to gangrene.

## FIRST CAUSE FOR DISCIPLINE

(Gross Negligence/Incompetence – Failure to Ensure Implementation of Pressure

Ulcer/Skin Integrity Care Plan)

18. Respondent is subject to discipline under Code section 2761(a)(1) for gross negligence and/or incompetence in that as the ADON, she failed to ensure that GHRC staff implemented a pressure ulcer/skin integrity care plan to monitor P.R, as set forth above in paragraphs 11 through 17.

## SECOND CAUSE FOR DISCIPLINE

(Gross Negligence/Incompetence – Failure to Ensure Appropriate

Monitoring of Right Heel Pressure Ulcer)

19. Respondent is subject to discipline under Code section 2761(a)(1) for gross negligence and/or incompetence in that as the ADON, she failed to ensure that nursing staff were appropriately monitoring P.R.'s right heel pressure ulcer, as set forth above in paragraphs 11 through 17.

## THIRD CAUSE FOR DISCIPLINE

(Gross Negligence/Incompetence - Failure to Conduct Weekly Skin Assessment Rounds)

20. Respondent is subject to discipline under Code section 2761(a)(1) for gross negligence and/or incompetence in that as the ADON, she failed to conduct weekly skin assessment rounds to ensure nursing compliance with GHRC's pressure ulcer management policy, as set forth above in paragraphs 11 through 17.

## FOURTH CAUSE FOR DISCIPLINE

(Gross Negligence/Incompetence – Failure to Ensure Timely Referral)

21. Respondent is subject to discipline under Code section 2761(a)(1) for gross negligence and/or incompetence in that as the ADON, she failed to ensure that P.R. was timely seen at the Wound Clinic, as set forth above in paragraphs 11 through 17.

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## FIFTH CAUSE FOR DISCIPLINE

(Gross Negligence/Incompetence - Failure To Timely Notify Physician)

22. Respondent is subject to discipline under Code section 2761(a)(1) for gross negligence and/or incompetence in that as the ADON, she failed to ensure that P.R.'s physician was updated on the severity of her pressure ulcer, as set forth above in paragraphs 11 through 17.

# PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Revoking or suspending Registered Nurse License Number 638845 issued to Kara Lin Allen.
- 2. Ordering Karen Lin Allen, to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3.
  - 3. Taking such other and further action as deemed necessary and proper.

DATED: October 27, 2011

LOUISE R. BAILEY, M.ED., RN

**Executive Officer** 

Board of Registered Nursing

Department of Consumer Affairs

State of California Complainant

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# Exhibit B

Letter of Public Reproval in Case No. 2012-265



STATE AND CONSLIMER SERVICES AGENCY . GOVERNOR EDMUND G. BROWN JR

Board of Registered Nursing
P O Box 944210, Sacramento, CA 94244-2100
P (916) 322-3350 I www.rn.ca.gov
Louise R. Bailey, M.ED., RN, Executive Officer



March 6, 2013

Kara Lin Allen 2218 Spring Street, Apartment D Eureka, CA 95501

RE:

LETTER OF PUBLIC REPROVAL

In the Matter of the Accusation Against:

Kara Lin Allen, Registered Nurse License No. 638845

Dear Ms. Allen:

On October 27, 2011, the Board of Registered Nursing, Department of Consumer Affairs, State of California, filed an Accusation against your Registered Nurse License. The Accusation alleged that you violated Business and Professions Code section 2761 (a)(1). Said conduct arose as a result of your failure to ensure that appropriate nursing treatment and care was delivered by staff to a patient who had developed a serious pressure ulcer.

Taking into consideration that you have never been before the Board in a disciplinary matter and that you presented letters of recommendation that attested to your nursing competency, and that there are other mitigating circumstances in this case that support the determination that you are safe to practice as a Registered Nursing, the Board has decided that the charges warrant a public reproval.

Accordingly, in resolution of this matter under the authority provided under Business and Professions Code section 495, the Board of Registered Nursing, Department of Consumer Affairs issues this letter of public reproval.

Sincerely,

LOUISE R. BAILEY, M.ED., R.N.

R. Bailey M.Ed. RN

**Executive Officer** 

Board of Registered Nursing

Department of Consumer Affairs

State of California